

ATTACHMENT - REMARKS

By this Amendment, a new figure 4 has been added to the application, and consistent therewith the specification has been amended. In the claims, independent claim 1 has been amended for clarity and to better define the invention including the subject matter formerly in dependent claim 3 (now canceled). In addition, dependent claim 6 has been canceled. It is submitted that the present application is in condition for allowance for the following reasons.

In the *Drawings* section of the outstanding DETAILED ACTION, the drawings were objected to for not showing every feature specified in the claims. In particular, the examiner noted that the slot of claim 6 was not depicted. In order to overcome this objection, claim 6 has been deleted.

In addition in the *Drawings* section, the examiner noted that the filter media of claims 13-15 was not depicted. In order to overcome this objection, a new figure 4 has been added; and the specification amended consistent with this new figure, to describe the figure in the brief description of the drawings and to refer to the figure in the detailed description. It will be appreciated that figure 4 is a copy of figure 2, but with the area where the filter media has already been described in the specification as being located (to "substantially fill the region 28", see page 10, line 11) now depicting this filter media schematically. It is therefore submitted that this new figure 4 and the associated amendments to the specification do not constitute new matter and should be entered to overcome this objection.

In the following *Information Disclosure Statement* section of the Action, the examiner first indicated the general requirements for an IDS, and then stated that "the

references cited in the Search Report have not been considered". This statement is an obvious error, since included with the Action was a copy of the applicant submitted (second) IDS listing including all of the references (or equivalents as noted in the IDS listing and/or the search reports provided) cited in the PCT and UK search reports also provided to the examiner, and those references were all initialed by the examiner. Therefore, in the absence of a further explanation by the examiner, it will be assumed that this statement was made in error.

Also in the *Information Disclosure Statement* section, the examiner noted that a listing of references in the specification was not a substitute for a proper IDS. Again, the examiner stated that unless such references were cited by the examiner, "they have not been considered". This statement is also an obvious error, as the above noted signed copy of the applicant submitted (second) IDS listing shows that the examiner has considered all of the specification noted references. It is noted that the examiner has provided no guidance as to which ones of the four different (not including equivalents) references mentioned in the specification was not considered. It is also noted that this statement may have been specifically directed to UK 2158741 (or the noted equivalent USP 4747962) mentioned in the specification and not (obviously) cited in either of applicant's IDSs. However, by applicant oversight, it was not noted in the second IDS that UK 2158741 is equivalent to USP 4865751, which was cited in the second IDS. Therefore, the examiner has obviously considered all references noted in the specification; and in the absence of a further explanation by the examiner it will be assumed that the examiner's statement was made in error.

In the Specification section, the examiner objected to the lack of section headings, asserting that such created an "ambiguity of what is being discussed and where". Initially, it is noted that the use of section headings in a US application is only "suggested", but it is certainly not mandatory (see 37 CFR 1.77(c) – and even the sections are not mandatory per 37 CFR 1.77(b)). In addition, as typical of national stage applications drafted outside of the US, the present application does have the (main) sections suggested for US practice, which sections those of ordinary skill can readily identify and determine without any ambiguity what is being discussed and where in the present specification. Therefore, this objection to the specification should be withdrawn.

In the *Claim Rejections - 35 USC § 102* section, independent claim 1 and dependent claims 2, 4-7, 9-12 and 16-24 were initially rejected under 35 USC § 102 as being anticipated by Andoh (WO 00/62888). Andoh is applicant's own prior art, and the present invention provides an advantage thereover, as mentioned in the specification at page 3/30-4/15. And for the following reasons, it is submitted that amended claim 1, which includes the subject matter of now-canceled dependent claim 3 which was not rejected over this reference, is definitely allowable over this reference.

Andoh discloses a tubular member 10 having an extension 31. In operation, the mixture to be separated enters through the inlet 13 and is caused by the inlet chute 110 to enter the main interior of the vessel 2 in a manner which promotes a rotating flow as shown by figure 5 cited by the examiner in this section. Relatively clean water passes through the openings 11 into the tubular member 10 and flows upwardly into the extension 31 to be discharged from the outlet 33. The tubular member 10 has a frusto

conical member 9 at its lower end. The term "frusto conical" (page 12, lines 13 and 14 of Andoh) means that the apex region of the cone shape of the member 9 is removed. Furthermore, it is stated on page 12, lines 18 to 21 that the member 9 "communicates with [the] tubular member 10", which indicates a fluid flow relationship between the tubular member 10 and the frusto conical member 9. It is thus clear that the tubular member 10 is open at its lower end, and so tubular member 10 is in communication with the sump 7.

Page 12, line 19 of Andoh states that the member 9 "may be either solid or hollow (as shown)", but this means only that the member 9 may be a simple component comprising a sheet which has been formed into a conical shape, as shown in Figure 3, or may be a more solid body so that the flared region outside the diameter of the tubular member 10 is filled in. This does not, however, affect the communicating relationship between the tubular member 10 and the interior of the frusto conical member 9, as clearly shown in Figure 3 of Andoh.

Consequently, Andoh fails to disclose a separator in which the inner separation region is closed at its lower end, as required by amended claim 1.

Furthermore in Andoh, the inner separation region defined by both the tubular member 10 and the extension 31 is cylindrical, with a fully open cross-section. Consequently, the inner separation region of Andoh is not annular, with its inner periphery defined by a central cylindrical partition, as is now required by amended claim 1.

Still further, since there is no central cylindrical partition in Andoh, there is no disclosure of such a partition which is open at its lower end to provide access to the outlet opening, i.e., the sump 7 of Andoh et al.

A problem with the separator of Andoh is that any disturbance of material in the sump 7 can cause such material to rise into the vessel and to pass into the tubular member 10 and the extension 31, and thus to find its way to the outlet 33. This is clearly undesirable. However, closing the tubular member 10 would have the effect that there would be no access from above to the sump 7 for cleaning purposes. The present invention thus provides an improvement over the device of Andoh, resulting in increased removal and retention efficiencies as stated on page 4, lines 12 to 15 of the specification.

Therefore, for all of the foregoing reasons, it is submitted that amended independent claim 1 is neither disclosed nor made obvious by Andoh so that claim 1 is now allowable over this reference.

In the *Claim Rejections - 35 USC § 102* section, the Examiner has also rejected independent claim 1 and dependent claim 3 (the subject matter of which is now present in amended claim 1) as being anticipated by Lamb (US 4983295).

Like Andoh, Lamb fails to disclose an annular inner separation region which is closed at its lower end and is defined at its inner periphery by a central cylindrical partition which is open at its lower end to provide access to the outlet opening. Consequently, it is submitted that amended claim 1 is also neither disclosed nor made obvious by Lamb so that claim 1 is allowable over this reference as well.

In the *Claim Rejections - 35 USC § 102* section, the Examiner has also rejected independent claim 1 and dependent claims 3 (the subject matter of which is now present in amended claim 1) and 13 to 15 for being anticipated by Druffel (US 4298465).

Druffel discloses a fuel/water separator comprising a vessel having a spherical lower end and containing a filter cartridge accommodated within a flow director 64. In operation, fuel is directed down the outside of the flow director 64 and enters the flow director at its lower end, then passing through the filter cartridge 84 to exit through a passage 40. The lower end of the filter cartridge is closed by a cover 88, while the region of the interior of the flow director 64 outside the filter cartridge 84 is open at its lower end, as indicated by the flow arrows. Tabs 80 are provided to support the filter cartridge 84, but these do not close the outer region of the interior of the flow director 64. Consequently, Druffel fails to disclose an annular inner separation region which is closed at its lower end and is defined at its inner periphery by a central cylindrical partition which is open at its lower end, as all claimed in amended claim 1.

Consequently, it is submitted that amended claim 1 is neither disclosed nor made obvious by Druffel so that claim 1 is allowable over this reference as well.

In view of all of the above, it is submitted that amended claim 1 is now allowable, and consequently that all of dependent claims 2, 4-5, 7-24 are likewise allowable for at least the same reasons that claim 1 is allowable.

In the *Claim Rejections - 35 USC § 103* section, dependent claim 8 was rejected under 35 USC § 103 as being obvious over Andoh in view of Galletti (USP 4271019).

However, as noted above, it is submitted that dependent claim 8 is allowable at least for the same reasons as amended independent claim 1 from which it ultimately depends.

For all of the foregoing reasons, it is submitted that the present application is in condition for allowance and such action is solicited.

Respectfully submitted,

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